

TAM:JJT:nl

UNITED STATES DISTRICT COURT FOR THE
MIDDLE DISTRICT OF PENNSYLVANIA

MICHAEL NORWOOD, :
: CIVIL NO. 1:01-CV-1005
Plaintiff, :
v. : (CALDWELL, J.)
: (SMYSER, M.J.)
DONALD ROMINE, :
: (Electronically Filed)
Defendant. :
:

DEFENDANT DONALD ROMINE'S
PRETRIAL MEMORANDUM

This pretrial memorandum is submitted on behalf of the United States.

Date Conference Held by Counsel.

Plaintiff is a pro se inmate and, therefore, no conference was held.

A. Jurisdiction.

Federal court jurisdiction is based on 28 U.S.C. § 1331.

B. Summary of the Facts and Contentions as to Liability:

Plaintiff Michael Norwood ("Norwood") is a member of the Nation of Islam (NOI) and an inmate at the United States Penitentiary in Lewisburg, Pennsylvania. Norwood claims that Defendant former Warden Donald Romine ("Warden Romine") violated

his First Amendment right to the free exercise of religion by refusing to provide Norwood with a Kosher diet.

On October 28, 2000, Norwood submitted a written request to USP Lewisburg Religious Services Department staff asking for a "Kosher or Halal" diet. In response to a question asking, "What are the religious reasons for your dietary needs?", Norwood responded, "The Holy Quoran based on Nation of Islam Teachings."

Norwood was interviewed by Religious Services' staff member Abdulfattah Jamiu, on October 31, 2000.¹ Chaplain Jamiu concluded that Norwood's dietary needs could be satisfied merely by his participation in the "mainline component" of the religious diet. That is, Norwood could self-select from several food choices offered by USP Lewisburg Food Service--i.e., the main steam line entree, an alternative no-flesh menu, or select from a well stocked salad bar, which is available every day. This decision was documented on Norwood's religious interview form.

The determination that Norwood did not require the certified (Halal or Kosher) processed food component of the religious diet was made on the basis of Norwood's self-stated membership with the Nation of Islam and his adherence to Nation of Islam Teachings.

Nation of Islam dietary requirements are set forth in the book How to Eat to Live by Elijah Muhammad, the founder to the Nation of Islam. According to the founder of the religious group

¹ Chaplain Jamiu is an Imam, or religious leader, in the Muslim Faith.

to which Norwood claims membership, there is no requirement for disposable eating utensils, or any instructions for special cleaning requirements for eating utensils.

Norwood filed administrative remedies concerning his request for disposable utensils and was denied relief at the institutional, Regional, and Central Office levels.

In response to his administrative remedies, Norwood was informed that his religious dietary needs were determined based on the responses he provided during his interview with Religious Services staff. He was also informed that he may re-apply for consideration for the religious alternative diet.

On March 23, 2002, Norwood was placed on the religious alternative diet.

Defendant Warden Romine was not involved in the day to day evaluation of inmates for placement on the Bureau of Prisons' religious alternative diet program. The evaluation and placement of inmates in the religious diet program is the responsibility of the Religious Services Department.

C. Undisputed Facts.

Stipulations desired:

- a. That officials at USP Lewisburg had previously provided the Plaintiff with a Kosher/Halal diet from July of 1997 through October 28, 2002;
- b. That records at USP Lewisburg indicate that the Plaintiff's religious preference is Nation of Islam;

- c. That from October 28, 2002 through March 23, 2002, Plaintiff was not provided with a certified processed religious diet.
- d. That the plaintiff was re-entered into the certified, processed religious diet program by the chaplin department at USP Lewisburg on March 23, 2002.

D. Description of Damages, Where Applicable.

See Plaintiff's Pretrial Memorandum.

E. Names and Addresses of Witnesses the United States May Call at Trial.

- 1. Donald Romine
USP Lewisburg
- 2. Edward Ruberts, Supervising Chaplin
USP Lewisburg
- 3. Abdul fattah Jamiu
Religious Services Staff
USP Lewisburg

F. Testimony of Expert Witnesses.

Warden Romine will not be calling an expert witness.

G. Special Comment About Pleadings and Discovery.

None.

H. Legal Issues Involved.

Whether Warden Romine violated Norwood's First Amendment right to the free exercise of religion when he rejected Norwood's request for a certified religious diet.

I. Stipulations Desired.

None.

J. Estimated Number of Trial Days.

United States estimates that the trial will last one day.

K. Other Pertinent Matters.

None.

L. Schedule of Exhibits.

See attached Exhibit list.

M. Special Verdict Questions.

None tendered.

N. Settlement Authority.

The person with settlement authority has been notified in accordance with Local Rule 16.2.

O. Local Rule 30.10 Certificate.

Plaintiff is a pro se inmate and, therefore, counsel has not met with him to discuss depositions to be used at trial.

P. **Proposed Findings of Fact/Conclusions of Law.**

This action is to be tried before a jury.

Respectfully submitted,

THOMAS A. MARINO
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s/ Joseph J. Terz
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Dated: June 13, 2003

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 : **(SMYSER, M.J.)**
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CERTIFICATE OF SERVICE

The undersigned hereby certifies that she is an employee in the Office of the United States Attorney for the Middle District of Pennsylvania and is a person of such age and discretion to be competent to serve papers.

That on June 13, 2003, she served a copy of the foregoing

**DEFENDANT DONALD ROMINE'S
PRETRIAL MEMORANDUM**

by electronic means or by placing a copy in a postpaid envelope addressed to the person hereinafter named, at the place and address stated below, which is the last known address, and by depositing said envelopes and contents in the United States Mail at Harrisburg, Pennsylvania to:

Michael Norwood, Pro Se
Reg. No. 06970-014
U.S. PENITENTIARY
P.O. Box 1000
Lewisburg, Pennsylvania 17837

s/ Naomi Losch
Naomi Losch
Legal Assistant